

AMENDED IN SENATE AUGUST 13, 2002

AMENDED IN SENATE AUGUST 5, 2002

AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY APRIL 16, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 709

Introduced by Assembly Member Wayne

February 22, 2001

An act to add Sections 48022 and 48022.5 to the Public Resources Code, relating to solid waste, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 709, as amended, Wayne. Codisposal sites: cleanup.

The California Integrated Waste Management Act of 1989 requires the California Integrated Waste Management Board to initiate a program for the cleanup of solid waste disposal sites and for cleanup of solid waste at codisposal sites where no responsible party is available to pay for timely remediation, and where cleanup is needed to protect public health and safety or the environment. In developing and implementing the program, the board is required to consult with enforcement agencies and California regional water quality control boards.

This bill would require the board, in consultation with the State Water Resources Control Board and the Department of Toxic Substances Control, to develop, on or before June 30, 2003, sampling and analysis protocols to be utilized by the board and the local enforcement agencies

for site investigation and characterization of hazardous substances at burn dump sites, as defined.

The bill would require the board to use the sampling and analysis protocols to investigate and characterize hazardous substances at a site whenever it receives an application for funding under the site cleanup program.

The bill would prescribe a protocol to be used by the board, the department, the State Water Resources Control Board, and the appropriate California regional water quality control board in determining which entity may provide remediation oversight on cleanup projects.

The bill would require the board to develop standardized language for the placement of mandatory deed restrictions on any burn dump site property on which any solid or hazardous waste is left in place.

The bill would require the board, in consultation with the department and the State Water Resources Control Board, to provide, on or before August 1, 2003, a progress report to the Legislature and the Governor regarding implementation of these provisions.

The bill would require the board to enter into an agreement with the department for the board to fund consultation activities that are made necessary under these provisions and are completed by the department. The board would be required to maintain this funding at not ~~less~~ *more* than \$100,000 per year, payable from any funds that are available to the board and expendable for these purposes, but not from any General Fund appropriation. The board's activities in compliance with these provisions would be funded with allocations from the Solid Waste Disposal Site Cleanup Trust Fund, a continuously appropriated fund in the State Treasury. Thus, the bill would make an appropriation by requiring additional payments to be made from that continuously appropriated fund.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 48022 is added to the Public Resources
- 2 Code, to read:
- 3 48022. The Legislature finds and declares all of the
- 4 following:



1 (a) Pursuant to the legal framework and definitions pertaining
2 to solid waste contained in this division, the board and the local
3 enforcement agencies have general authority and responsibility
4 for responding to environmental conditions at solid waste disposal
5 sites to ensure protection of the public health and safety and the
6 environment.

7 (b) The definitions of “solid waste,” “solid waste disposal,”
8 and “solid waste landfill” establish some of the parameters for the
9 general authority and responsibility of the board and the local
10 enforcement agencies.

11 (c) The Solid Waste Disposal and Codisposal Site Cleanup
12 Program established under this article establishes a mechanism for
13 funding the cleanup of solid waste disposal sites and the solid
14 waste at codisposal sites under specified conditions and
15 circumstances.

16 (d) A burn dump site is a solid waste disposal site and, as such,
17 is a site that is eligible for funding pursuant to the program,
18 provided all other criteria for program eligibility are met.

19 (e) Pursuant to the Health and Safety Code, the Department of
20 Toxic Substances Control has general jurisdiction, authority, and
21 responsibility regarding hazardous substance release sites.

22 (f) Pursuant to the Water Code, the State Water Resources
23 Control Board and the regional water quality control boards have
24 general jurisdiction, authority, and responsibility regarding
25 protection of the waters of the state.

26 (g) Most burn dump sites impact multiple media. Burn dump
27 sites contain hazardous substances and, therefore, can be
28 characterized generally as hazardous substance release sites. Burn
29 dump sites also contain predominantly solid waste and, therefore,
30 can be characterized generally as solid waste disposal sites. Some
31 burn dump sites impact, or have the potential to impact, waters of
32 the state.

33 (h) Burn dump sites are presumed to be solid waste disposal
34 sites, subject to the general authority and responsibility of the
35 board and the local enforcement agencies. In addition to this
36 general presumption, it is the intent of the Legislature to require
37 that the procedures set forth in Section 48022.5 be followed to
38 ensure that hazardous substances and hazardous wastes at burn
39 dump sites are adequately characterized and safely managed and
40 remediated in consultation with, or under the direct oversight of,

1 the department or the appropriate regional water quality control
2 board, or both.

3 SEC. 2. Section 48022.5 is added to the Public Resources
4 Code, to read:

5 48022.5. (a) For the purposes of this section, the following
6 terms have the following meanings, unless the context clearly
7 requires otherwise:

8 (1) “Burn dump site” means a solid waste disposal site that
9 meets all of the following conditions:

10 (A) Was operated prior to 1972.

11 (B) Is closed.

12 (C) Prior to closure, was a site where open burning was
13 conducted.

14 (2) “Department” means the Department of Toxic Substances
15 Control.

16 (3) “Regional board” means a California regional water
17 quality control board.

18 (4) “Remediation oversight agency” means the entity
19 responsible for environmental oversight on a burn dump site
20 remediation project.

21 (5) “Sensitive land use” means either of the following:

22 (A) Use for residences, schools, day care facilities, hospitals
23 and hospices, and other facilities or structures that have a high
24 density of occupation on a daily basis.

25 (B) Use as a park, golf course, or any other, similar open-space
26 area that is made available for public use, when the park, golf
27 course, or open-space area has a potential for human exposure to
28 hazardous substances.

29 (b) On or before June 30, 2003, the department, in consultation
30 with the board and the State Water Resources Control Board, shall
31 develop protocols to be utilized by the board and the local
32 enforcement agencies for site investigation and characterization of
33 hazardous substances at burn dump sites.

34 (1) The protocols shall include, but need not be limited to, both
35 of the following items:

36 (A) Sampling and analysis protocols to be utilized by the board
37 and the local enforcement agencies for site investigation and
38 characterization of hazardous substances at burn dump sites.

39 (B) Appropriate abatement measures for nonsensitive land
40 uses.

1 (2) In addition, the protocols may include either or both of the
2 following items:

3 (A) Cleanup guidelines, levels, or thresholds for one or more
4 typical constituents of concern based on nonsensitive land uses.

5 (B) Specifications for confirmation sampling on partial and
6 complete clean-closed sites.

7 (c) Whenever the board receives an application for funding
8 under this article for a burn dump site, the board shall use the
9 protocols developed by the department under subdivision (b) to
10 investigate and characterize hazardous substances at the site.

11 (d) Once sufficient site information is available, the board shall
12 notify the department and the appropriate regional board of the
13 board's interest in providing funding and remediation oversight
14 for the site.

15 (e) For a nonsensitive land use site, the board shall proceed as
16 the remediation oversight agency, following the notification
17 required under subdivision (d), unless the department or regional
18 board requests a site consultation meeting under subdivision (g).

19 (f) For an existing or proposed sensitive land use site, the board
20 shall request a site consultation meeting under subdivision (g).

21 (g) For sites with existing or proposed sensitive land uses, or
22 where otherwise requested by the department or a regional board,
23 the board, the department, the State Water Resources Control
24 Board, and the appropriate regional board shall hold a site
25 consultation meeting to determine which agency will provide
26 remediation oversight. If, following a review of the site
27 information, the department or a regional board requests to
28 provide remediation oversight, that request shall be granted. If the
29 department or a regional board does not request to provide
30 remediation oversight, remediation oversight of the site shall
31 remain with the board. In cases where the board requested the
32 meeting, the determination of remediation oversight agency shall
33 be made within 30 days of the board's request for the meeting.

34 (h) The board shall develop standardized language for the
35 placement of mandatory deed restrictions on any burn dump site
36 property on which any solid or hazardous waste is left in place.
37 This standardized language shall meet, at a minimum, the
38 requirements described in Section 1471 of the Civil Code, and the
39 restrictions shall run with the land.

1 (i) On or before August 1, 2003, the board, in consultation with
2 the department and the State Water Resources Control Board, shall
3 provide a progress report to the Legislature and the Governor
4 regarding implementation of this section, including, but not
5 limited to, information on the protocols required under this section
6 and the status of any site consultation meetings and decisions made
7 pursuant to this section.

8 (j) The board shall enter into an agreement with the department
9 for the board to fund consultation activities that are made
10 necessary under this section and are completed by the department.
11 The board shall maintain this funding at not ~~less~~ *more* than one
12 hundred thousand dollars (\$100,000) per year, payable from any
13 funds that are available to the board and expendable for these
14 purposes, but not from any General Fund appropriation.

15 (k) Nothing in this section is intended to limit the authority of
16 the board, the department, the State Water Resources Control
17 Board, or a regional board pursuant to other provisions of law.

18 (l) Nothing in this section is intended to preclude any
19 qualifying entity from applying for and receiving funding
20 assistance under any other provision of law.

